

875—216.28(91D) Tipped employees.

216.28(1) With respect to each tipped employee whose wages are determined pursuant to the definition of “wage” in 215.3(23), the employer shall maintain and preserve payroll or other records containing all the information and data required in 216.2(1) and the following:

a. A symbol, letter or other notation placed on the pay records identifying each employee whose wage is determined in part by tips;

b. Weekly or monthly amount reported by the employee, to the employer, of tips received (this may consist of reports made by the employees to the employer on IRS Form 4070);

c. Amount by which the wages of each tipped employee have been deemed to be increased by tips as determined by the employer (not in excess of 40 percent of the applicable statutory minimum wage). The amount per hour which the employer takes as a tip credit shall be reported to the employee in writing each time it is changed from the amount per hour taken in the preceding week;

d. Hours worked each workday in any occupation in which the employee does not receive tips, and total daily or weekly straight-time payment made by the employer for such hours; and

e. Hours worked each workday in occupations in which the employee receives tips, and total daily or weekly straight-time earnings for such hours.

216.28(2) Reserved.

SOURCE: 29 CFR 516.28.